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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/767,335	01/30/2004	Kazutoshi Shiba	Q79657	5230

23373 7590 03/10/2005  
SUGHRUE MION, PLLC  
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WASHINGTON, DC 20037

EXAMINER
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RAO, SHRINIVAS H

ART UNIT	PAPER NUMBER
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2814

DATE MAILED: 03/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/767,335	<b>Applicant(s)</b> SHIBA ET AL.	
	<b>Examiner</b> Steven H. Rao	<b>Art Unit</b> 2814	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 30 January 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) 9 and 10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 1/30/2004.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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### DETAILED ACTION

Receipt is acknowledged of paper submitted under 35 USC 119 claiming priority from Japanese Patent Application No. 2003-024300 filed on January 31, 2003 .

#### Information Disclosure Statement

The IDS filed on January 30, 2004 has been considered a copy of the initialed PTO-1449 is enclosed.

#### *Election/Restrictions*

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-8 are, drawn to a semiconductor device, classified in class 257 , subclass 774
- II. Claims 9-10 are , drawn to a method of manufacturing the semiconductor device , classified in class 438 , subclass 782.

Inventions Gr. I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the product as claimed can be made by another and materially different process namely without the polishing step recited in the method claims .

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

During a telephone conversation with Howard Bernstein, Esq. on 03/04/05 a provisional election was made without traverse to prosecute the invention of Gr. 1 , claim 1-8 .

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Affirmation of this election must be made by applicant in replying to this Office action. Claims 9-10 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

### ***Drawings***

Figures 1A and B should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### **Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made

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to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 to 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over .  
Van Cleemput et al. ( U.S. Patent No. 6,576,345, herein after Cleemput) in view of  
Applicants' admitted prior art, ( herein after AAPR ) .

With respect to claim 1 , Cleemput describes a semiconductor device,  
comprising: a semiconductor substrate; ( figure 2 3101, col. 6 line 16) a low dielectric  
constant film constituted essentially of a ladder-type hydrogen siloxane provided on  
semiconductor substrate; ( figure 2 3102, col. 6 line 14)

Cleemput does not specifically describe a protection film provided on said low  
dielectric constant film;

However , AAPR in figures 1A-B and specification pages 2-3 describes a  
protection film provided on said low dielectric constant film to a barrier film ( 5) to  
provide an inert interface isolation and prevent damage in subsequent process like high  
temperatures and etching.

Therefore it would have been obvious to one of ordinary skill in the art at the time  
of the invention to include AAPR's barrier film in Cleemput's device to provide an inert  
interface isolation and prevent damage in subsequent process like high temperatures  
and etching.

The remaining limitations of claim 1 are :

and a metal interconnect formed in said low dielectric constant film and said  
protection film. ( AAPR figure 1 A , B) .

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With respect to claim 2 Cleemput describes the semiconductor device as recited in Claim 1, wherein said protection film is constituted of a material having greater polishing resistance against a chemical mechanical polishing process than said low dielectric constant film. ( Inherent property and AAPR specification page 2 e.g. Ta, etc. film have greater resistance than SiN).

With respect to claim 3 Cleemput describes the semiconductor device as recited in claim 1 wherein said protection film is constituted essentially of a silicon oxide film. ( AAPR specification page 2 line 10).

With respect to claim 6 Cleemput describes the semiconductor device recited in claim 1 wherein a plurality of said metal interconnects is provided so as to form an isolated region where one of said plurality of metal interconnects is separately located and a concentrated region where the other metal interconnects are closely disposed to one another. ( AAPR Figure 1 A and B elements 12, 13 spec. page 3).

*Allowable Subject Matter*


Claims 4-5 and 7-8 include allowable subject matter which if rewritten in independent form ( including all limitations) may be allowable. .

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven H. Rao whose telephone number is( 571) 272-1718. The examiner can normally be reached on 8.00 to 5.00.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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03/05/05